

### **REMARKS/ARGUMENTS**

Claims 1, 3-19 and 22-25 remain in this application. Allowability of claims 4-5, 9-10, 14-15, 20 (now claim 19) and 22 is noted. Claims 2, 20 and 21 are cancelled. Claims 4, 5, 9 and 14 are amended to place the claims in independent form as suggested in the Office action. Claims 1, 6, and 24 are amended to more distinctly describe the subject matter of applicant's invention and to correct typographical errors. Claim 19 is amended to incorporate the limitation originally presented in allowed claim 20. Accordingly, claim 19 and claims 21-23 that depend from claim 19 are believed to be in condition for allowance.

The specification is amended to correct numbering errors noted in the Office Action. No new matter is added by these amendments and the amendments are not intended to affect the scope of the claims.

#### **1. SPECIFICATION**

The amendments to the specification are believed to overcome the objections raised in the Office action and to correct a typographical error in the Summary of the Invention.

#### **2. CLAIM OBJECTIONS**

Claim 6 is amended to spell out the acronym XAUI. It should be noted that this acronym for ten gigabit attachment unit interface somewhat unusual in that the ten gigabit is represented by the "X" in XAUI. XAUI is an interface defined by 10 Gigabit Ethernet Alliance, technical details of which are well known. No further amendment to the drawings is believed required.

With respect to the objection to the use of the term "adapted to" in claims 1 and 24, a careful reading of the cited In re Hutchison case from 1946 does not prohibit use of "adapted to" in a claim, nor mandate its correction. It merely holds that in that particular instance the words "adapted to" were not given patentable weight. In the case of claims 1 and 24 the Office action correctly

notes that these words create a functional limitation in that it requires a particular ability in the recited element. Although the language has been changed in the spirit of cooperation, it is believed that the claims are definite and has been interpreted properly. A brief search on the patent office web site reveals that since 1976 over 400,000 patents have issued containing the term "adapted to", perhaps suggesting a subtle shift in the acceptability of this term since In re Hutchison was handed down in 1946. Withdrawal of this objection is respectfully requested.

**3. REJECTIONS UNDER 35 U.S.C. 112**

Claims 2 and 21 were rejected under 35 U.S.C. 112. Cancellation of claims 2 and 21 renders this rejection moot.

**4. REJECTIONS UNDER 35 U.S.C. 103**

Claims 1, 6, 11-13, and 24-25 were rejected under 35 U.S.C. 103 as unpatentable over Nelson et al. in view of Kalkunte et al. This rejection is respectfully traversed.

It is noted that all of the claims of the instant application were commonly owned by the owner of the Nelson et al. reference, and that the instant application shares a common inventor, Jeffrey J. Nelson, with the Nelson et al. reference.

Claim 1 calls for, among other things, a front end from transmitting and receiving byte striped Fibre Channel frames. The Nelson reference teaches a system that multiplexes multiple ESCON channels into a single Fibre Channel connection, but does not discuss byte striping multiple FC frames. At least this element of claim 1 is not shown or suggested by the references. Claim 1 also calls for a route controller that determines a destination port on a switching element for the Fibre Channel frames. The matrix controller in Nelson manages and association between ESCON links and particular link controllers, but does not determine a destination port on a switching element. In general, Nelson is

directed to a different application than the presently claimed invention, hence, these features are not shown or suggested by the reference.

Kalkunte et al. do not supply the deficiencies of the Nelson reference. Withdrawal of the rejection is respectfully requested. Claims 6, 11 and 12 that depend from claim 1 are believed to be allowable for at least the same reasons as claim 1.

Claim 13, like claim 1, calls for byte-striped FC frames which are not shown or suggested by Nelson in combination with Kalkunte et al. Further, Claim 13 calls for a backplane data interface coupled to switch ports of a switching element. The most analogous structure in Nelson couples to link controllers, not switch ports. Accordingly, this feature of claim 13 is not shown or suggested by Nelson in view of Kalkunte et al.

Claim 24 calls for, among other things, a backplane data interface coupled to the fibre data interface and configured to couple to a plurality of low bandwidth links from a plurality of ports on a switching element. As set out above, neither Nelson nor Kalkunte et al. show or suggest coupling to ports on a switching element. For at least these reasons claim 24, and claim 25 that depends from claim 24, are allowable over the combined references.

Claims 3, 7-8, 18-19 and 23 were rejected under 35 U.S.C. 103 as unpatentable over Nelson et al. in view of Kalkunte et al. and further in view of Azizoglu et al. This rejection is respectfully traversed. Azizoglu et al. do not supply the deficiencies noted above with respect to independent claims 1 and 13. Specifically, Azizoglu et al. neither show nor suggest using a byte-striped FC frame nor coupling the plurality of low bandwidth links to ports of a switching element. For at least the reasons set out above, claims 3, 7-8 and 18 are believed to be allowable over Nelson et al. in view of Kalkunte et al. and further in view of Azizoglu et al.

Claim 19 calls for coupling a plurality of port module ports to a plurality of switch ports on at least one switching element and receiving byte striped fibre channel frames a first port.

As noted above, Nelson et al. in view of Kalkunte et al. and further in view of Azizoglu et al. taken alone or in combination fail to show or suggest these features. Moreover, claim 19 calls for reassembling the byte striped fibre channel frames in the first port--how can the references show or suggest this feature when they do not provide byte-striping? For at least these reasons claims 19 and 23 that depends from claim 19, are believed to be allowable.

**5. CONCLUSION**

In view of all of the above claims 1, 3-19 and 22-25 are believed to be allowable and the case in condition for allowance which action is respectfully requested. The references that were cited and not relied upon are believed to be no more pertinent than those references that were relied upon.

A check in the amount of \$454 is included with this response to cover the fees for presentation of four additional independent claims and a one month extension of time fee of \$110. Should any other fee be required, please charge Deposit 50-1123. Should any additional extension of time be required please consider this a petition therefore and charge the required fee to Deposit Account 50-1123.

Respectfully submitted,

Date: December 15, 2003

BY: \_\_\_\_\_

  
Stuart T. Langley #33,940  
of HOGAN & HARTSON LLP  
One Tabor Center  
1200 17th Street, Suite 1500  
Denver, Colorado 80202  
Phone: (720) 406-5335  
Fax: (720) 406-5301